

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

PHYLLIS SAXON, SANDRA
IVERSON, and OLD WEST
SALOON, LLC,

Plaintiffs,

vs.

CITY OF DILLON, MONTANA, a
body politic, DILLON POLICE
CHIEF PAUL CRAFT, in his
individual and official capacity,
DILLON POLICE CHIEF DONALD
GUIBERSON, in his individual and
official capacity, and OFFICER
JOSEPH HORROCKS, in his
individual and official capacity and
JOHN DOES 1-X,

Defendants.

No. CV 19-16-BU-SEH

ORDER

On December 7, 2020, the Court issued its Memorandum and Order,¹ which
held:

¹ Doc. 169.

ORDERED:

1. Horrocks is entitled to qualified immunity as to the remaining claims asserted in Count I.

2. **Count I** – excessive force against Horrocks (Individual Capacity) is DISMISSED.²

That ruling “squarely present[ed] to the Court for resolution the issue of whether, in the absence of a claim for violation of a protected constitutional right, any claim for failure to train or supervise remains viable.”³

The December 7, 2020, Order⁴ also provided:

1. Plaintiffs and Defendants shall have to and including December 18, 2020, in which to file a brief directed to the issue of whether, in light of the Court’s Order dismissing all claims in Count I, the claims asserted in Count II of the Second Amended Complaint⁵ remain viable.

2. Response briefs will be due on or before December 28, 2020. Optional reply briefs will be due on or before January 4, 2021.⁶

On December 8, 2020, Plaintiffs filed a document denominated

² Doc. 169 at 8-9.

³ Doc. 170 at 2 (citing *City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986); *Smith v. City of Wyoming*, 821 F.3d 697, 707 (6th Cir. 2016)).

⁴ Doc. 170.

⁵ Doc. 27.

⁶ Doc. 170 at 2-3.

Plaintiffs' Motion to Consolidate Orders Regarding
Summary Judgment into a Final Order for Purposes of
Post-Judgment Motions and Appeal or, in the
Alternative, Motion for Extension of Time to File Notice
of Appeal Pending Final Resolution of Defendants'
Motion for Summary Judgment⁷

with a brief in support.⁸ The motion⁹ recited in part, "[t]he undersigned counsel for Plaintiffs has contacted counsel for Defendants and is authorized to represent that Defendants have not responded as of the time of filing, as to the relief requested herein."¹⁰

ORDERED:

1. The statement in the motion (Doc. 171) recounted above does not satisfy or comply with the meet and confer requirements of Local Rule 7.1. The motion is denied for that reason.

2. Plaintiffs shall have to and including December 15, 2020, in which to refile the motion and a supporting brief in compliance with Local Rule 7.1. Any brief in support shall not incorporate by reference material or content of briefs previously filed.

⁷ Doc. 171.


⁸ Doc. 172.

⁹ Doc. 171.

¹⁰ Doc. 171 at 2.

3. The Court will take up and consider the issue of “whether, in light of the Court’s Order dismissing all claims in Count I, the claims asserted in Count II of the Second Amended Complaint remain viable” referenced in paragraph 1 of the Court’s Order of December 7, 2020,¹¹ upon filing of briefs as directed in the Order.¹²

DATED this 9th day of December, 2020.


SAM E. HADDON
United States District Judge

¹¹ Doc. 170 at 2 (footnote omitted).

¹² Doc. 170.